

**ORIGINAL**

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, DC 20554

DOCKET FILE COPY ORIGINAL

**RECEIVED**

JUL 10 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Number Portability Query Services	)	CC Docket No. 98-14
	)	
Ameritech Tariff F.C.C. No. 2, Transmittal No. 1149, as Amended	)	CCB/CPD 98-26
	)	
Bell Atlantic Tariff F.C.C. No. 1, Transmitted No. 1041	)	CCB/CPD 98-25
	)	
Pacific Bell Tariff F.C.C. No. 128, Transmittal Nos. 1927 and 1973	)	CCB/CPD 98-23
	)	
Southwestern Bell Tariff F.C.C. No. 73, Transmittal Nos. 2638 and 2694.	)	CCB/CPD 98-17
	)	

**AIRTOUCH COMMUNICATIONS, INC.  
OPPOSITION TO DIRECT CASES**

**AIRTOUCH COMMUNICATIONS, INC.**

Pamela J. Riley  
David A. Gross  
AirTouch Communications, Inc.  
1818 N Street, N.W.  
Suite 800  
Washington, D.C. 20036  
(202) 293-3800

Attorneys for AirTouch Communications, Inc.

July 10, 1998

No. of Copies rec'd \_\_\_\_\_  
List ABCDE

0x6

## Table of Contents

Summary .....	i
I. The Commission Should Reject Ameritech's Argument to Delay Addressing the Lawfulness of the Query Tariffs .....	4
II. The Tariffing BOCs Have Failed to Meet Their Burden of Establishing that Their Query Service Tariffs Are Just and Reasonable .....	6
III. The Tariffing BOCs Have Not Adequately Identified and Justified Their Claimed Query Costs .....	8
A. The Tariffing BOCs Have Not Adequately Identified and Justified Their Direct Query Costs .....	8
1. Ameritech .....	8
2. Bell Atlantic .....	9
3. PacBell .....	9
4. Southwestern .....	10
B. The Tariffing BOCs Have Not Adequately Justified Their Joint and Common Costs .....	10
1. Ameritech .....	12
2. Bell Atlantic .....	12
3. PacBell .....	13
4. Southwestern .....	13
C. The Tariffing BOCs Have Not Adequately Justified Their Claimed Overhead .....	14
D. The Tariffing BOCs Have Not Adequately Justified Their Tandem Query Rate Element .....	15
E. The Tariffing BOCs Have Not Adequately Justified Their Database Query Rate Element .....	16
F. The Various Non-Recurring Charges Are Not Adequately Justified .....	18
IV. Substantial Questions Remain Regarding the Reasonableness of the Tariffing BOCs' Query Demand Forecasts .....	19
A. The Tariffing BOCs Have Not Adequately Justified Their Query Demand Forecasts .....	20

B.	Incumbent LECs Should Be Required to Adjust Their Query Services Annually to Reflect Actual Usage .....	23
V.	Additional Terms and Conditions in the BOC Query Tariffs Are Unreasonable .....	23
A.	It Is Unreasonable For Incumbent LECs to Assess Query Charges for Queries That Are Unnecessary for Call Routing .....	24
B.	Competitive Carriers Should Not Be Required to Submit Future Traffic Estimates to Incumbent LECs .....	27
C.	Ameritech Should Be Directed to Remove Its “At a Minimum” Language .....	30
	Conclusion .....	30

## Summary

The direct cases filed by Ameritech and Bell Atlantic and the consolidated “response” submitted by PacBell and Southwestern ignore both the Commission’s *Cost Recovery Order* and its *Designation Order*. In the *Cost Recovery Order*, for example, the Commission ruled that incumbent LECs may not use general overhead loadings and may instead recover only those incremental overheads that they can demonstrate they incurred specifically in the provision of query services. Despite this explicit ruling, all four tariffing BOCs ask the Commission to approve sizable general overhead loadings without making any attempt to establish that any of their claimed overhead was incurred specifically in their provision of query services.

Similarly, in the *Designation Order*, the Commission directed the tariffing BOCs to list in their direct cases all their claimed costs and to subdivide these costs by the three number portability cost categories. None of the tariffing BOCs complied with this directive. Instead, the tariffing BOCs simply listed what they claimed were their direct costs, and generally justified the bulk of those costs with a single phrase, “other expenses.”

AirTouch also demonstrates that some of the query rates for tandem access and database access are unreasonable. For example, three of the BOCs — Ameritech, PacBell, and Southwestern — charge the same rate for tandem access that they charge for end office access, even though each rate element has very different implementation costs and very different demand. Similarly, two of the BOCs — PacBell and Southwestern — charge the same rate or a similar rate for their database-only query service that they charge for their switch-based query service, even though they realize significant cost savings with their database-only option. AirTouch further demonstrates that the miscellaneous non-recurring charges are not adequately justified.

The tariffing BOCs have also not justified their demand forecasts. The assumptions used by the BOCs are not explained, and are often flatly inconsistent with each other. Given the volatility of the market, coupled with the fact that erroneous demand estimates can lead to substantial LEC over-recovery, AirTouch asks the Commission to require all incumbent LECs to adjust their query rates annually to reflect the most recent, actual usage of their query services.

Some of the terms and conditions in the BOC query tariffs are unreasonable and should be declared to be unlawful. For example, it is unreasonable for incumbent LECs to charge for queries that are unnecessary for call routing. AirTouch demonstrates that that unilateral decision made by incumbent LECs, purportedly made to increase *their own* efficiency, imposes unnecessary costs on all other interconnecting carriers. AirTouch further demonstrates that the practice of some BOCs to require “detailed forecasts” from their competitors is unnecessary because the BOCs already possess the very data they seek in rendering access or terminating compensation bills to interconnecting carriers.

The query charges imposed by these tariffs BOCs are grossly inflated by unexplained and, in some cases, unlawful mark-ups. The Commission should promptly complete its tariff investigation, including the prescription of new rates, so carriers like AirTouch which operate in a competitive market are no longer subjected to paying unreasonably high and unlawful rates.

BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, DC 20554

In the Matter of	)	
	)	
Number Portability Query Services	)	CC Docket No. 98-14
	)	
Ameritech Tariff F.C.C. No. 2,	)	CCB/CPD 98-26
Transmittal No. 1149, as Amended	)	
	)	
Bell Atlantic Tariff F.C.C. No. 1,	)	CCB/CPD 98-25
Transmitted No. 1041	)	
	)	
Pacific Bell Tariff F.C.C. No. 128,	)	CCB/CPD 98-23
Transmittal Nos. 1927 and 1973	)	
	)	
Southwestern Bell Tariff F.C.C. No. 73,	)	CCB/CPD 98-17
Transmittal Nos. 2638 and 2694.	)	

**AIRTOUCH COMMUNICATIONS, INC.  
OPPOSITION TO DIRECT CASES**

AirTouch Communications, Inc. ("AirTouch"), pursuant to the *Order Designating Issues for Investigation* ("Designation Order"),<sup>1</sup> hereby opposes the direct cases filed by Ameritech and Bell Atlantic and the consolidated "response" filed by Pacific Bell ("PacBell") and Southwestern Bell ("Southwestern") — collectively, the "tariffing BOCs."<sup>2</sup>

---

<sup>1</sup> See *Number Portability Query Services*, CC Docket No. 98-14, *Order Designating Issues for Investigation*, DA 98-1173 (June 17, 1998) ("Designation Order").

<sup>2</sup> See Ameritech Direct Case (July 1, 1998); Bell Atlantic Direct Case (July 1, 1998); PacBell/Southwestern Consolidated Response to Order Designating Issues for Investigation (July 1, 1998) ("PacBell/Southwestern Response"). AirTouch notes that U S WEST recently filed its query service tariff. See U S WEST FCC Tariff No. 5 Transmittal 931 (July 2, 1998). Because many of the same issues discussed in this opposition apply to U S WEST's tariff, AirTouch's encourages the Commission to issue promptly its designation order for the U S WEST tariff.

In their direct cases and response, the tariffing BOCs make no serious attempt either to address the issues in the *Designation Order* or to demonstrate that their query charges are consistent with the *Number Portability Cost Recovery Order*.<sup>3</sup> Indeed, Ameritech frankly admits that its cost and demand forecasts are “not supported by a cost study that fully meets the Commission’s latest requirements.”<sup>4</sup>

Instead, the tariffing BOCs take the position that the Commission’s cost recovery requirements do not matter because, they assert, they are providing number portability query services in a competitive environment.<sup>5</sup> However, their query tariffs belie this assertion. For example,

- ▶ At least three of the tariffing BOCs propose to charge interconnecting carriers for “billions” of admittedly “unnecessary database queries for calls to nonported numbers”<sup>6</sup> — even though, according to one of the tariffing BOCs, this unnecessary action will result in interconnecting carriers paying, in its words, “big bucks” to the BOCs.<sup>7</sup>
- ▶ The bulk of their claimed direct costs — 90% for Ameritech and 83% for PacBell — are identified and justified solely by the assertion that they represent “other expenses.”
- ▶ All the tariffing BOCs inflate their rates by various and substantial overheads and markups. For example, PacBell

---

<sup>3</sup> See *Telephone Number Portability*, CC Docket No. 95-116, *Third Report and Order*, FCC 98-82 (May 12, 1998) (“*Cost Recovery Order*”).

<sup>4</sup> Ameritech Direct Case at 2-3.

<sup>5</sup> See, e.g., Bell Atlantic Direct Case at 8; PacBell/Southwestern Response at 3.

<sup>6</sup> See PacBell Petition for Clarification or, in the Alternative, Reconsideration, CC Docket No. 95-116, at 2 (Aug. 26, 1996).

<sup>7</sup> See Bell Atlantic’s Reply in Support of Its Petition for Clarification and Partial Reconsideration, CC Docket No. 95-116, at 6 (Oct. 10, 1996).

adds to its basic rate 31% for general overhead, another 62% for so-called “cost additives,” and yet another 42% for unidentified “joint and common costs.”<sup>8</sup>

The fact is that the provision of query services is not now, nor will it be in the near future, a competitive service, as the BOCs contend. CMRS providers will not be in a position for some time to generate their own number portability queries — a fact the Commission noted in delaying the date that the CMRS industry must support number portability,<sup>9</sup> and a fact the tariffing BOCs concede.<sup>10</sup> Moreover, as a practical matter, CMRS providers have no meaningful alternatives but to use the query services offered by incumbent local exchange carriers (“LECs”).<sup>11</sup> Accordingly, it is critically important that incumbent LECs comply fully with the Commission’s number portability query service cost recovery requirements so CMRS providers pay rates that reflect costs — not rates that are inflated by sizeable and undefined “cost additives.”

---

<sup>8</sup> See PacBell Transmittal No. 1973, Description and Justification, Figure 1, Lines 10, 11a, and 11b (March 13, 1998)(“PacBell D&J”).

<sup>9</sup> See 47 C.F.R. § 52.31(b), and *Number Portability First Report and Order*, 11 FCC Rcd 8352, 8439-40 ¶¶ 164-66 (1996).

<sup>10</sup> See, e.g., *Ameritech Direct Case* at 10. PacBell and Southwestern are therefore wrong in asserting that CMRS providers that “would otherwise take services under the Query Tariffs can self-provide them.” Response at 3.

<sup>11</sup> Although one or more independent providers of query services may surface, it is apparent that the prices charged by these third-party providers will be influenced greatly by the prices charged by the BOCs and other incumbent LECs. It is, therefore, not surprising that Illuminet has taken the position that it is reasonable for its BOC competitors to include general overhead in their query rates — because if the BOCs charge high rates for their query services, they can charge higher rates as well. See *Illuminet Comments on Direct Cases*, CC Docket No. 98-14 (Feb. 20, 1998).

**I. The Commission Should Reject Ameritech's Argument to Delay Addressing the Lawfulness of the Query Tariffs**

Ameritech's query charges are exorbitantly high — twice that charged by Bell Atlantic and over three times that charged by PacBell and Southwestern Bell.<sup>12</sup> Further, as noted above, Ameritech readily admits that its supporting cost study does “not . . . meet” the Commission requirements.<sup>13</sup> Indeed, Ameritech's total cost support is limited to two, single-page exhibits.<sup>14</sup> This paltry demonstration reveals that:

- ▶ 50% of Ameritech's query charge is designed to recover unexplained “other direct expenses;”
- ▶ Another 44% of its query charge is designed to recover general overhead in violation of the Commission's *Cost Recovery Order*; and
- ▶ Only six percent (6%) of its high query charges is designed to recover investment, depreciation, taxes, and the like.<sup>15</sup>

Nevertheless, Ameritech asks the Commission to delay action on its tariffs and to “leave the existing rates for Query Service in place” until the Commission completes a separate investigation on the apportionment of joint costs.<sup>16</sup> Ameritech appears to suggest that, because it is

---

<sup>12</sup> Compare Ameritech (\$0.005332) with Bell Atlantic (\$0.002625), PacBell (\$0.001532), and Southwestern (\$0.001449). See also *Designation Order* at 7 ¶ 9 (“Ameritech's proposed tandem query charge is 3.6 times that of Southwestern Bell.”).

<sup>13</sup> See Ameritech Direct Case at 2-3.

<sup>14</sup> See Ameritech D&J, Exhibits 1 and 2.

<sup>15</sup> *Id.*

<sup>16</sup> Ameritech Direct Case at 3.



subject to an accounting order, there is “no harm” in allowing it to continue recovering exorbitantly high (and completely unsupported) query charges.<sup>17</sup>

The Commission should reject Ameritech’s request for delay. First, the supplemental investigation to which Ameritech refers will likely have minimal impact on the rates it charges for query service. This investigation will be limited to the question of determining “appropriate methods for apportioning joint costs among portability and nonportability services.”<sup>18</sup>

While Ameritech states that it included joint and common costs,<sup>19</sup> one cannot ascertain from its meager workpapers which costs it seeks to recover and what percentage of these costs it allocated to query service. However, given that 44% of Ameritech’s charges are for general overhead — in direct contravention of the *Cost Recovery Order*<sup>20</sup> — and that 90% of Ameritech’s claimed direct costs are identified and justified only as “other direct expenses,”<sup>21</sup> —

---

<sup>17</sup> See *Ameritech Transmittal No. 1149*, CCB/CPD 98-26, *Memorandum Opinion and Order*, DA 98-648, at 6-7 ¶¶ 10 and 15 (April 3, 1998).

<sup>18</sup> *Cost Recovery Order* at 40 ¶ 75. See also *id.* at 79 ¶ 148 (“[T]he Chief, Common Carrier Bureau, will further consider methods of identifying the portion of joint costs that incumbent LECs should treat as carrier-specific costs directly related to providing number portability.”). Moreover, the focus of this investigation will be on the end-user, line charges that incumbent LECs will impose in February 1999 rather than on the query charges assessed today on interconnecting carriers. See *Designation Order* at 5 ¶ 5.

<sup>19</sup> See, e.g., *Ameritech Direct Case* at 6-7.

<sup>20</sup> See *Cost Recovery Order* at 40 ¶ 74 (“[C]arriers may not use general overhead loading factors in calculating such [query] costs.”).

<sup>21</sup> See *Ameritech D&J*, Figure 1.

in direct contravention of the *Designation Order*<sup>22</sup> — it is clear that Ameritech’s charges are substantially (and unlawfully) inflated — *however* Ameritech may have allocated its joint costs.

The fact is that Ameritech and other incumbent LECs will have no incentive to submit adequate cost support so long as they are permitted to charge interim rates well above that authorized by the Commission. CMRS providers operating in a fiercely competitive environment should not be required to pay admittedly inflated and unlawful rates upon the promise that much of their overpayments will be returned to them at some unspecified time in the future. Given the refusal of the tariffing BOCs to justify their exorbitant rates and their refusal to amend their tariffs to comply with existing and explicit Commission requirements, the Commission should deny Ameritech’s request for delay and should instead act promptly in resolving this investigation — including, if necessary, the prescription of new rates.<sup>23</sup>

## **II. The Tariffing BOCs Have Failed to Meet Their Burden of Establishing that Their Query Service Tariffs Are Just and Reasonable**

The Communications Act imposes on incumbent LECs the burden of establishing that new tariff revisions are “just and reasonable.”<sup>24</sup> None of the four tariffing BOCs has met this statutory burden, as demonstrated below in Sections III (claimed costs), IV (demand forecasts), and V (other terms and conditions).

---

<sup>22</sup> See *Designation Order* at 9 ¶ 15 (specifying the level of detail required so the Commission and other parties can evaluate claimed costs and allocators).

<sup>23</sup> Under the Communications Act, “the Commission is authorized and empowered to determine and prescribe what will be the just and reasonable charge.” 47 U.S.C. § 205(a).

<sup>24</sup> See 47 U.S.C. § 204(a)(1) (“[T]he burden of proof to show that the new or revised charge, or proposed charge, is just and reasonable shall be upon the carrier.”).

What makes the Ameritech and Bell Atlantic direct cases and the PacBell/Southwestern “response” so troubling is that they virtually ignore both the Commission’s *Cost Recovery Order* and the *Designation Order*. In the *Cost Recovery Order*, the Commission specified in considerable detail the types of costs which incumbent LECs may and may not recover in their query charges. Among other things, the Commission held that incumbent LECs may recover only costs “incur[red] specifically” in their provision of query services;<sup>25</sup> may not use general overhead loadings and may instead recover “only those incremental overheads that they can demonstrate they incurred specifically” in the provision of query services;<sup>26</sup> and may recover only those “joint costs that is demonstrably an incremental cost” they incur in the provision of query services.<sup>27</sup>

Moreover, in its *Designation Order*, the Commission gave the tariffing BOCs a precise “roadmap” of the type of detail that was necessary to justify their tariffs:

In responding to the issues we designate for investigation, the LECs subject to this investigation should present their costs in terms of the categories the Commission developed in the *Cost Recovery Order*, i.e., shared costs, carrier-specific costs directly related to providing number portability, and carrier-specific costs not directly related to providing number portability. Direct Cases should break investment and expenses estimates into these categories, and should identify costs with sufficient specificity to allow the Commission and other parties to evaluate them.<sup>28</sup>

Inexplicably, all four tariffing BOCs ignored these requirements in their direct cases and “response.” For example, none of the BOCs have set forth all their costs and divided these costs

---

<sup>25</sup> See *Cost Recovery Order* at 40 ¶ 72.

<sup>26</sup> *Id.* at ¶ 74.

<sup>27</sup> *Id.* at ¶ 73.

<sup>28</sup> *Designation Order* at 9 ¶ 15.

into the three categories the Commission specified. This material omission is alone grounds to reject the query tariffs because, without this minimal level of detail, the Commission and other parties cannot determine whether the prices for query service are just and reasonable.

### **III. The Tariffing BOCs Have Not Adequately Identified and Justified Their Claimed Query Costs**

Commission Rule 52.33(a)(2) specifies that an incumbent LEC's query charges "may recover *only* carrier-specific costs *directly related* to providing number portability" query service.<sup>29</sup> The Commission has clarified that to constitute a "directly related cost, the cost must be "incur[red] specifically" in the provision of number portability, and that costs which an incumbent LEC incurs as "an incidental consequence" of providing query services "are not costs directly related to providing number portability."<sup>30</sup> None of the tariffing BOCs has demonstrated that its query charges are limited to "directly related" costs, as AirTouch documents below.

#### **A. The Tariffing BOCs Have Not Adequately Identified and Justified Their Direct Query Costs**

While incumbent LECs unquestionably are entitled to recover costs directly incurred in providing query services, none of the tariffing BOCs has adequately identified and justified its claimed direct costs.

1. Ameritech. Ameritech claims to have a direct cost per query of \$0.002948.<sup>31</sup> Ninety percent (90%) of this cost (\$0.002652) is identified and justified only as "other direct

---

<sup>29</sup> 47 C.F.R. § 52.33(a)(2)(emphasis added).

<sup>30</sup> *Cost Recovery Order* at 40 ¶72.

<sup>31</sup> See Ameritech D&J, Exhibit 1.

expenses.”<sup>32</sup> Given that these unexplained “other direct expenses” constitute such a high percentage of its total direct query costs, Ameritech should be required to list the expenses included in this broad “other” category and explain how they are directly related to the provision of number portability query services.

2. Bell Atlantic. Bell Atlantic did not appear to include any Description and Justification or workpapers with its query tariff, taking the position that such data “is not required.”<sup>33</sup> Consequently, AirTouch — and the Commission, in turn — are unable to determine the costs Bell Atlantic included to calculate its query costs and, accordingly, unable to judge whether Bell Atlantic’s rates are just and reasonable. The Commission should therefore require Bell Atlantic to identify and justify its costs, and interested parties should thereafter be given an opportunity to comment on this data.

3. PacBell. PacBell claims to have a “annual direct cost per query” of \$0.000614 which, PacBell states, represents the costs “truly caused” by number portability.<sup>34</sup> However, 83% of this direct cost (\$0.000511) is justified by a single word: “expenses.”<sup>35</sup> Given that these unexplained “expenses” constitute such a high percentage of its total direct query costs, PacBell should be required to identify the expenses it has included and explain how they are directly related to the provision of number portability queries.

---

<sup>32</sup> *Id.*

<sup>33</sup> See Bell Atlantic Transmittal No. 1041, at 2 (April 6, 1998). Bell Atlantic did not include any facts or worksheets with its direct case either.

<sup>34</sup> PacBell D&J at 14 and Figure 1, Line 8.

<sup>35</sup> *Id.* at Figure 1, Line 6.

PacBell also adds \$0.000380 per query as a “cost additive” to recover so-called “volume insensitive” costs.<sup>36</sup> However, PacBell appears to have engaged in double counting in developing its volume insensitive costs.<sup>37</sup> The Commission should, therefore, ensure that there is no double counting and that the volume insensitive costs PacBell claims are truly “directly related” costs, again by requiring PacBell to provide additional cost information related to this item.

4. Southwestern. Southwestern claims to have a direct annual cost of \$0.0001261 per query.<sup>38</sup> Forty percent (40%) of this cost (\$0.0000514) is justified simply as “operating expense.”<sup>39</sup> Southwestern should be required to identify the operating expenses it included and explain how those expenses are directly related to the provision of query service.

**B. The Tariffing BOCs Have Not Adequately Justified Their Joint and Common Costs**

The Commission has recognized that incumbent LECs may recover their joint and common costs so long as such costs are “demonstrably an incremental cost carriers incur in the provision of long-term number portability.”<sup>40</sup> It appears that the tariffing BOCs have included sizable joint and common costs, but none of them has even attempted to demonstrate that these

---

<sup>36</sup> PacBell D&J at 12 and Figure 1 at Line 11a.

<sup>37</sup> Half of PacBell’s volume insensitive costs (\$48 of \$99.4 million) are described as “implementation cost.” See PacBell D&J, Figure 4 at Line 7. However, the same accounts are included both as volume insensitive costs and in implementation costs. Compare Figure 4 with Figure 5. Indeed, many of these same accounts are also included in developing its direct query cost. Compare Figures 1, 4, and 5.

<sup>38</sup> See Southwestern D&J, Figure 1, Line 7.

<sup>39</sup> See *id.*, Line 5.

<sup>40</sup> Cost Recovery Order at 40 ¶ 73.

common costs constitute “an incremental cost” incurred specifically in the provision of query services.

In addition to not identifying their joint and common costs, the tariffing BOCs have failed to justify their allocation of such costs to query services. As the Commission has noted,<sup>41</sup> the tariffing BOCs appears to allocate their claimed joint costs to query service based on the percentage of query service queries as a total of all number portability queries. This allocation methodology is not reasonable because, as one of the BOCs has acknowledged, “not every number portability cost is related to the Query Service.”<sup>42</sup> For example, Ameritech has stated that while modifications to dozens of Operations Support System (“OSS”) were necessary to support local number portability, modifications to only four such systems were needed to support query service.<sup>43</sup> Thus, while Ameritech estimates that query services provided to other carriers will constitute approximately 15% of all number portability queries it generates,<sup>44</sup> Ameritech acknowledges that “less than 2% of the total OSS costs for LNP” are appropriately allocated to query services.<sup>45</sup> It is therefore important for the tariffing BOCs to establish that their claimed joint and common costs are incurred specifically in the provision of *query* services, as opposed to the number portability services provided to their own customers.

It is also important to scrutinize whether modifications made to support number portability can be used for other services — and whether, as a result, a portion of the joint costs

---

<sup>41</sup> See *Designation Order* at 6 ¶ 5.

<sup>42</sup> Ameritech Direct Case, CC Docket No. 98-14, at 6 (Feb. 13, 1998).

<sup>43</sup> *Id.*, Attachment 2 at 1.

<sup>44</sup> *Id.* at 15.

<sup>45</sup> *Id.*, Attachment 2 at 6.

should appropriately be allocated to these other services. For example, Ameritech has acknowledged that some of the enhancements it made for number portability can be used to “support other service applications.”<sup>46</sup> However, none of the meager cost support submitted by any of the tariffing BOCs addresses this important level of detail.

1. Ameritech. Ameritech states that it included such joint costs as Signaling System No. 7 (“SS7”) and OSS investment/expenses,<sup>47</sup> but Ameritech’s cost support is so meager that AirTouch cannot ascertain where in its cost study it included such costs, much less what percentage of such joint costs it allocated to query service. Given the Commission’s declaration that the burden rests on the tariffing LEC to demonstrate its inclusion only of its incremental joint costs, Ameritech should be required to identify and justify any joint costs it wants to include in its query charges.

2. Bell Atlantic. Bell Atlantic also states that it included such joint costs as SS7 and OSS investment expenses.<sup>48</sup> However, given that Bell Atlantic has submitted no cost support, AirTouch cannot ascertain what joint costs Bell Atlantic included and how Bell Atlantic determined to allocate these joint costs to query service as opposed to other services using the same SS7 and OSS capabilities. The Commission should require Bell Atlantic to submit this data for review and consideration, before it allows Bell Atlantic to recover any joint costs.

---

<sup>46</sup> *Id.* at 8.

<sup>47</sup> *See* Ameritech Direct Case at 6-8.

<sup>48</sup> *See* Bell Atlantic Direct Case at 2-3.



3. PacBell. PacBell claims to have incurred sizable joint and common costs in adding to its SS7 network and in modifying its OSS and billing systems.<sup>49</sup> However, its supporting work papers do not identify the costs it supposedly incurred in making these modifications. Instead, PacBell appears to have computed its joint and common cost by using a flat, and seemingly completely arbitrary, 20% allocator.<sup>50</sup> The Commission should require PacBell to identify all its joint costs and explain how the portion of such costs allocated to query service are directly related to query service.

4. Southwestern. Southwestern claims to have incurred substantial OSS investment and expenses (\$84 million).<sup>51</sup> It also claims to have incurred additional SS7 costs, but it does not separately list these costs.<sup>52</sup> In addition to these joint and common costs, Southwestern also adds a flat, and seeming arbitrary, 20% allocator to its direct query costs to recover additional (but unidentified) “joint and common costs.”<sup>53</sup> Consistent with the requirements set forth in the *Cost Recovery Order*, Southwestern should be required to separately list all the joint and common costs it wants to include in its query charges and explain how each of those cost is directly related to query service.

---

<sup>49</sup> See PacBell D&J at 7-9.

<sup>50</sup> PacBell D&J, Figure 1, Line 11b.

<sup>51</sup> See Southwestern D&J, Figure 5.

<sup>52</sup> Southwestern included its SS7 expenses as part of its total switching expenses (\$130 million) and allocated its SS7 investment directly to its direct query costs. See *id.*, Figure 5.

<sup>53</sup> See *id.*, Figure 1, Line 10b.

### C. The Tariffing BOCs Have Not Adequately Justified Their Claimed Overhead

The tariffing BOCs have included substantial general overheads in their query charges.<sup>54</sup> However, the Commission has since held that incumbent LECs may “*not* use general overhead loading factors” in calculating their query charges and that they may include “*only* those incremental overheads that they can demonstrate they incurred specifically in the provision of long-term-number portability.”<sup>55</sup> The Commission cogently explained that to permit incumbent LECs to recover pre-existing overheads as part of a new service — that is, overheads other than new, incremental overheads — would result in LECs receiving “double recovery” of their general overheads.<sup>56</sup>

None of the tariffing BOCs responded to this Commission directive by removing their general overheads and identifying additional overheads incurred in implementing number portability. Instead, they decided to devote their direct cases to complaining that the Commission erred in limiting recovery only of new, incremental overheads — although in doing so they fail to challenge the Commission’s “double recovery” reasoning.<sup>57</sup> The simple answer to this

---

<sup>54</sup> See Ameritech D&J, Exhibit 2, Line 2 (1.7747 overhead loading factor); PacBell D&J, Figure 1, Line 10 (1.46 overhead loading factor); Southwestern D&J, Figure 1, Line 9 (1.7121 overhead loading factor). Because Bell Atlantic did not include any workpapers with its tariffs, AirTouch cannot ascertain the level of overhead Bell Atlantic wants to recover.

<sup>55</sup> *Cost Recovery Order* at 40 ¶ 74 (emphasis added). See also *Designation Order* at 5 ¶ 6 (“Carriers may not use general overhead loading factors, but may include any incremental overhead cost that they can demonstrate they incurred specifically in the provision of long-term number portability.”).

<sup>56</sup> *Cost Recovery Order* at 40 ¶ 74.

<sup>57</sup> See PacBell/Southwestern Response at 4-9.

complaint is that, if the tariffing BOCs believe the Commission committed error, their remedy is to file a petition for reconsideration.<sup>58</sup>

In the meantime, the tariffing BOCs are obligated to comply with Commission rules *now in effect*. Inasmuch as none of the tariffing BOCs has even attempted to demonstrate that the overheads it seeks are constitute “incremental overheads . . . incurred specifically in the provision of long-term number portability,”<sup>59</sup> the Commission should remove all overhead claims from the query rates.<sup>60</sup>

**D. The Tariffing BOCs Have Not Adequately Justified Their Tandem Query Rate Element**

All four tariffing BOCs requested (and received) permission to establish separate rate elements for queries generated from a tandem switch as opposed to queries generated from an end-office switch.<sup>61</sup> However, only Bell Atlantic has proposed different charges for the two different rate elements.<sup>62</sup> The other three tariffing BOCs — Ameritech, PacBell, and Southwest-

---

<sup>58</sup> In fact, the tariffing BOC arguments help confirm the validity of the Commission’s decision. For example, PacBell and Southwestern want to include general overheads so they can recover their “customer operations” and “marketing” expenses (Response at 4 n.7) — when they do not incur such costs in the provision of query services to other carriers. Similarly, they want to include general overhead to obtain a contribution to “land and building” (*id.*), when their query charges already include such recovery. See PacBell D&J, Figure 1, Lines 4 and 5; Figure 4, Lines 4 and 5; and Figure 5, Lines 7 and 8.

<sup>59</sup> *Cost Recovery Order* at 40 ¶ 74.

<sup>60</sup> AirTouch is not opposed to giving the tariffing BOCs another opportunity to establish their incremental overheads.

<sup>61</sup> See *Ameritech and Bell Atlantic Part 69 Waiver Order*, 12 FCC Rcd 17605 (1997); *PacBell and Southwestern Part 69 Waiver Order*, 13 FCC Rcd 177 (1997).

<sup>62</sup> But, as the Commission correctly notes, Bell Atlantic has not justified its rate for end office queries. See *Designation Order* at 6 ¶ 9.

ern — propose to charge the same rate whether the query is generated from a tandem switch or from an end office switch. These three tariffing BOCs accomplish this result by combining their tandem and end office investment in developing a single query charge.<sup>63</sup>

This proposal of the three tariffing BOCs to assess the same charge for tandem and end office queries is unreasonable. Tandem switches have a different cost structure compared to end office switches, and the demand for tandem queries undoubtedly will be quite different than the demand for end office queries. In addition, carriers using end office queries should not be required to subsidize carriers using tandem queries (or *vice versa*). Moreover, requiring incumbent LECs to assess different charges for end office and tandem queries (reflecting the different costs and usage) would be fully consistent with the unbundling provisions of the Communications Act and prior Commission precedent.<sup>64</sup> AirTouch therefore asks the Commission to require the three tariffing BOCs to develop different rates for tandem and end office queries, so the rate for each item reflects only the cost actually incurred.

#### **E. The Tariffing BOCs Have Not Adequately Justified Their Database Query Rate Element**

Three of the four tariffing BOCs — Bell Atlantic, PacBell, and Southwestern — propose to give carriers the option of accessing their number portability databases directly (*via* their serving STP pairs), as an unbundled network element.<sup>65</sup> Bell Atlantic proposes to offer a

---

<sup>63</sup> See, e.g., PacBell D&J, Figure 1, Lines 1 and 2.

<sup>64</sup> With access charges, for example, the Commission has required LECs to develop separate rates for tandem access as opposed to end office access.

<sup>65</sup> Ameritech alone does not propose to offer this option. Given that the Commission has already held that number portability databases must be offered as an unbundled network element, the Commission should direct Ameritech to offer this capability as well. See, e.g., *Local Competition Order*, 11 FCC Rcd 15499, 15741 ¶ 484 (1996).

sizable discount for carriers that directly access its number portability database: its database-only charge is 75% less than its tandem query charge and 95% less than its end office query charge.<sup>66</sup> Bell Atlantic explains that it is able to offer these lower charges because “where the customer launches its own query to our database, Bell Atlantic would incur no switching costs.”<sup>67</sup>

On the other hand, PacBell proposes to charge the same rate for database-only queries and switched-based queries, while Southwestern proposes to offer a discount for database-only queries of less than five percent (5%) — even though switching constitutes a major portion of its number portability costs.<sup>68</sup> The PacBell and Southwestern proposals to charge the same or similar rates for database only queries are patently unreasonable because these BOCs avoid substantial costs in providing a database-only option and because interconnecting carriers should not be forced to pay for parts of a LEC network they do not use. AirTouch therefore asks the Commission to direct PacBell and Southwestern to limit their charges to database-only queries to reflect only the directly related costs of the LEC network elements actually used in provisioning the service.

---

<sup>66</sup> See Bell Atlantic Transmittal, Tariff § 13.3.16(F).

<sup>67</sup> Bell Atlantic Direct Case, at 2 (Feb. 13, 1998). In this situation, Bell Atlantic and other LECs also avoid use of their SS7 links connecting their switch generating the query and the STP pair serving their number portability databases.

<sup>68</sup> See PacBell Transmittal 1973, Tariff § 13.3.16(E)(database only and switched-generated queries both priced at \$0.001532); Southwestern Transmittal 2694, Tariff § 34.5.2 (switch-generated query: \$0.001449) and § 34.5.4 (database-only query: \$0.001390).

## F. The Various Non-Recurring Charges Are Not Adequately Justified

Three of the four tariffing BOCs (all but Ameritech) propose to assess a variety of different non-recurring charges — even though these BOCs did apparently not seek or receive a Part 69 waiver to establish these new rate elements.<sup>69</sup>

Bell Atlantic, PacBell, and Southwestern each propose to impose a non-recurring activation, or order, charge for query services. However, Southwestern's order charge of \$17 demonstrates that the charges assessed by Bell Atlantic (\$103.35) and PacBell (\$98.30) are facially unreasonable.

PacBell and Southwestern also propose to assess “non-recurring” default billing charges — \$269.91 and \$315.56 respectively per month per bill.<sup>70</sup> At the outset, a monthly fee is not a “non-recurring” charge, as these BOCs claim. More fundamentally, while LECs may incur certain nominal expenses in establishing a billing account, it is not at all apparent why they would incur these set-up fees each month.<sup>71</sup> In addition, neither BOC has made any attempt to explain how its proposed monthly direct billing cost — \$187.87 for PacBell and \$184.10 for Southwestern — is just and reasonable and reflects the actual cost of preparing bills. Bills are generated automatically by computers, and it is not apparent that the computer time necessary to generate a monthly bill would exceed \$180 monthly.

---

<sup>69</sup> The Part 69 waiver orders appear to encompass only recurring charges relating to database queries. *See Ameritech and Bell Atlantic Part 69 Waiver Order*, 12 FCC Rcd 17605 (1997); *PacBell and Southwestern Part 69 Waiver Order*, 13 FCC Rcd 177 (1997).

<sup>70</sup> *See PacBell D&J*, Figure 7; *Southwestern D&J*, Figure 7, Line 1.

<sup>71</sup> Indeed, it is not even apparent why a BOC would incur any special costs during the first month, as it has a billing arrangement (whether in charging access charges to IXCs or terminating compensation to CMRS providers) with all carriers which may be delivering traffic in need of number portability queries.

The Commission should therefore direct PacBell and Southwestern to justify their proposed monthly billing charges. It should further ensure that the costs these BOCs attempt to recover in these separate billing charges are not also included in the substantial billing costs they include and seek to recover as part of the basic query charges. At a minimum, the Commission should direct these two BOCs to remove from their billing charges the substantial overhead loadings they have added — 46% for PacBell and 71% for Southwestern<sup>72</sup> — as these loadings are unlawful under the *Cost Recovery Order*.

Finally, PacBell alone proposes to assess a separate non-recurring charge of \$586.72 for use of the first STP pair and \$207.79 for every additional STP pair.<sup>73</sup> The purpose of this charge is not known; PacBell's tariff submission, including its Description and Justification, does not even mention this charge, much less describe it. The Commission should direct PacBell to describe and justify this new non-recurring charge. Even if PacBell can justify this charge, the Commission should, consistent with its *Cost Recovery Order*, direct PacBell to remove the substantial overhead loading it has included with its "STP charges."<sup>74</sup>

#### **IV. Substantial Questions Remain Regarding the Reasonableness of the Tariffing BOCs' Query Demand Forecasts**

The Commission has sought comment on whether the tariffing BOCs' query demand forecasts are reasonable.<sup>75</sup> LEC query demand levels are critical because they directly impact price and because a LEC which understates demand will receive query revenues in excess

---

<sup>72</sup> See PacBell D&J, Figure 7; Southwestern D&J, Figure 7, Line 4.

<sup>73</sup> See PacBell Tariff § 13.3.16(E)(6).

<sup>74</sup> See PacBell D&J, Figure 7.

<sup>75</sup> See *Designation Order* at 8 ¶ 11.

of its query costs. Forecasting the demand for any new service is always difficult, and any initial demand estimate necessarily involves a “best guess” only. While AirTouch believes that incumbent LECs should be given some discretion in forecasting their initial demand for a new service, none of the tariffing BOCs has adequately explained its projected demand for query service. In addition, incumbent LECs should be required to adjust their query tariffs annually so “best guess” demand estimates can be replaced with demand forecasts based on actual usage — to help ensure that query revenues generally match (rather than exceed) query costs.

**A. The Tariffing BOCs Have Not Adequately Justified Their Query Demand Forecasts**

AirTouch agrees with the Commission that the tariffing BOCs have not adequately explained their estimated demand for query services.<sup>76</sup> The Commission should therefore direct the tariffing BOCs to explain more fully their query demand forecasts to ensure their reasonableness.

At the outset, all incumbent LECs should be required to provide demand estimates for total number portability queries — including queries generated on behalf of other carriers and queries generated on behalf of their own customers (including resellers). In this regard, Ameritech, unlike the other three tariffing BOCs, did not include its demand estimates for queries generated on behalf of its own customers.<sup>77</sup> Thus, one cannot discern from Ameritech’s tariff papers what percentage it thinks queries performed on behalf of other carriers will be as a percent of total number portability queries.<sup>78</sup>

---

<sup>76</sup> See *Designation Order* at 8 ¶ 11.

<sup>77</sup> See *Ameritech D&J* at 5.

<sup>78</sup> In earlier transmittals, Ameritech stated that “approximately 15% of the query demand is  
(continued...) ”



AirTouch is also concerned about the vast differences among the estimates. Bell Atlantic, for example, assumes that queries generated on behalf of other carriers will constitute less than one percent (1%) of the total number portability queries its network will generate.<sup>79</sup> In contrast, PacBell and Southwestern state that they have estimated that queries generated on behalf of other carriers will constitute 15% of total queries.<sup>80</sup> While one might expect variations among different LECs, one would not anticipate differences of this magnitude.

There is also a wide variance in the assumptions each tariffing BOC has used in developing its respective demand forecast. For example, Ameritech assumes that interconnecting carriers will make extensive use of its query services through the end of 1999.<sup>81</sup> Similarly, Bell Atlantic assumed a “significant” drop in demand for its query services after 1999.<sup>82</sup> At the other extreme, PacBell shows query demand gradually increasing over a five-year

---

<sup>78</sup> (...continued)  
applicable to the Query Service.” Ameritech Direct Case, CC Docket No. 98-14, at 15 (Feb. 13, 1998). Ameritech has not stated in its current transmittal whether it continues to use the same, “approximately 15%” allocator.

<sup>79</sup> See Bell Atlantic Direct Case at 6 n.11. As noted above, Bell Atlantic did not appear to include a Description and Justification or any workpapers with its current transmittal, precluding potential users of its query services — as well as the Commission — from analyzing the reasonableness of its rates.

<sup>80</sup> See PacBell/Southwestern Response at 9 and 11. However, the attached workpapers do not appear to support this 15% allocator. For example, the demand data contained in Southwestern’s Figure 4 suggests that query services will constitute only 9% of total queries (11.3 billion of 123.9 billion). *But see* PacBell/Southwestern Response at 11 (“17.3% of queries, therefore, are expected from database, prearranged and default services.”).

<sup>81</sup> See Ameritech Direct Case at 10.

<sup>82</sup> See Bell Atlantic Direct Case at 6 n.12. However, Bell Atlantic’s demand estimates by year are not included with its current tariff submission.